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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,384	08/06/2003	Paul A. Noel	42430-10706	1286
47377	7590	08/21/2006	EXAMINER	
JENNER & BLOCK LLP ONE IBM PLAZA CHICAGO, IL 60611				NGUYEN, TU X
			ART UNIT	PAPER NUMBER
			2618	

DATE MAILED: 08/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/635,384	NOEL ET AL.	
	Examiner	Art Unit	
	Tu X. Nguyen	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 June 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3-13 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 14 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3-13 and 15-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 6/12/06 have been fully considered but they are not persuasive.

Regarding claim 1 and 13, Applicants argue "Maggenti does not disclose preemption of a current push-to-talk user for a higher priority user". The Examiner respectfully disagrees. Maggenti disclose "message indicating an error or priority arbitration conflict....The action field indicates whether the PTX message is granting, denying, revoking, or confirming control of the network's floor...The status field may indicate that a higher priority talker has been granted control of the net" (see par.0154). Clearly, Maggenti teaching the PTT server handling the PTT communications by sending status communication message (PTX message), and arbitrarily granting or revoke net's floor based on user privileged. The Examiner interprets "arbitration granting and revoke" reads on "preemption".

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-13 and 15-18, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Maggenti et al. (US 2002/0086665 A1).

Consider claims 1 and 13, Maggenti et al. disclose in a telecommunications system using half-duplex communications and a push-to-talk feature, a method for queuing participants

(arbitration) in a push-to-talk call (Paragraph (0035)), the method comprising the steps of: defining a group for the push-to-talk call in response to a user input and wherein the group has at least one participant (Abstract, paragraphs (0046) and (0052), determining the availability of the at least one participant (Paragraphs (0010), (0113) and (0114), assigning a priority level designation to the at least one participant (Paragraph (00351), allocating resources for the push-to-talk call after the steps of determining the availability of the at least one participant and assigning a priority level designation to the at least one participant (Paragraphs (0035), (0045), (0061) and (0181)), and granting access to transmit speech in the push-to-talk call based on the priority level (Paragraph (0035);

receiving a request to speak while a current participant is speaking; comparing a priority level of a participant initiating the request to speak with that of the current participant currently speaking; and preemption the current participant based on the priority level of the participant initiating the request and the priority level of the current participant currently speaking if the participant initiating the request has a higher priority level (see par.0154).

Consider claims 3 and 16, Maggenti et al. disclose the second server is programmed to transmit messages indicating the current speaker to the device capable of sending and receiving messages over the telecommunications system (Paragraphs (0156)-(0157), reads on claims 3 and 16).

Consider claims 4, 15 and 17, Maggenti et al. disclose the second server is programmed to transmit messages indicating a change in speakers to the device capable of sending and receiving messages over the telecommunications system and indicating a priority level designation (Paragraph (0154), reads on claims 4, 15 and 17).

Consider claims 5-6, Maggenti et al. disclose the step of defining a group for the push-to-talk call in response to a user input further includes the step of defining the group for the push-to-talk call using a device capable of sending and receiving messages (as in claim 5) and an Internet interface (as in claim 6) to select at least one participant (Paragraphs (0041)-(0042), reads on claims 5 and 6).

Consider claims 7 and 8, Maggenti et al. disclose the step of determining the availability of at least one participant further comprises the step of sending a request for access to a device capable of sending and receiving messages (as in claim 7) and receiving a response from the device capable of sending and receiving messages (as in claim 8), responsive to the step of sending a request for access to the device capable of sending and receiving messages. (Paragraphs (0159)-(0161), reads on claims 7 and 8).

Consider claims 9 and 18, Maggenti et al. disclose the second server is programmed to assign a priority designation to the at least one participant using one of: an Internet interface and the device capable of sending and receiving messages (Paragraphs (0035) and (0045), where Maggenti et al. disclose a priority code for determining how transmission privileges (priority) are granted or denied and such determinations are based on arbitration taking into consideration the priority level of a requesting net member (at least one participant) as compared (hence using) to the net member that has currently (device capable of sending and receiving messages) been assigned transmission privileges, reads on claims 9 and 18).

Consider claim 10, Maggenti et al. reserving a means for duplicating voice packets to be used in the call (Paragraph (0043)).

Consider claim 12, Maggenti et al. disclose requesting one of: a display of the queue order, and a display of all of the participants on the call (Paragraphs (00101, (0101) and (0117)).

Consider claim 11, Maggenti et al. disclose the step of receiving the request to speak while a current participant is speaking further comprises the step of depressing a button on a device capable of sending and receiving messages (see par.0122).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maggenti et al. in view of Yafuso et al. (US 5,912,882).

Consider claims 19 and 20, Maggenti et al. do not disclose wherein the display of all the participants includes the queue order and the queue order is displayed on the device capable of sending and receiving messages over the telecommunications system (as in claims 19 and 20). Yafuso et al. disclose wherein the second server is programmed to send the queue order and the queue order is displayed on the device capable of sending and receiving messages over the telecommunications system (Column 7 lines 30-48, reads on claims 19 and 20) Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Maggenti et al. to program the second server to receive a request for a display of the queue order and to display the queue order on the device capable of sending and receiving messages over the telecommunications system as taught by Yafuso et al. in order to allow the

participants to view the queuing order on their respective devices, learn their place in the queuing order and alter their priority within pre-described limits under urgent circumstances (as suggested by Yafuso in column 6 lines 28-67 and column 7 lines 1-12, and by Maggenti et al. in paragraph E0191)).

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

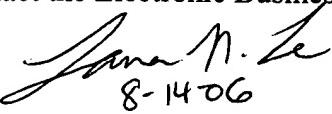
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed Tu Nguyen whose telephone number is 571-272-7883. The examiner can normally be reached on Monday through Friday from 6:30AM-2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


August 10, 2006


8-14-06
LANA LE
PRIMARY EXAMINER